



05 SEP 2007

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In re Application of	:	
KLOKKERS et al.	:	
Application No.: 10/577,569	:	
PCT No.: PCT/EP2004/012230	:	
Int. Filing Date: 28 October 2004	:	DECISION
Priority Date: 31 October 2003	:	
Attorney Docket No.: 930008-2208	:	
For: PHARMACEUTICAL ACTIVE-INGREDIENT-	:	
CONTAINING FORMULATION WITH COATING	:	

This decision is in response to the submission filed 17 July 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 October 2004, applicants filed international application PCT/EP2004/012230, which designated the United States and claimed a priority date of 31 October 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 12 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 May 2006 (30 April 2006 being a Sunday).

On 27 April 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a translation of the application into English.

On 26 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 21 February 2007, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration signed by all of the inventors except for Thomas Rillman, a letter from a Dr. Forstmeyer to Applicant's United States attorney, Ms. Massey Licata, dated 20 February 2007.

On 28 March 2006, a decision was mailed dismissing applicants' petition under 37 CFR

1.47(a) without prejudice. The decision indicated, *inter alai*, that applicant had failed to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. The decision set a two-month extendable period for reply.

On 17 July 2007, applicants filed the instant submission which was accompanied by, *inter alia*, a declaration of inventors signed by Thomas Rillman.

DISCUSSION

Petition Under 37 CFR 1.47(a)

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

Declaration of Inventors

The declaration of inventors signed by Thomas Rillman filed 17 July 2007 is not in compliance with 37 CFR 1.497(a)-(b) since it does not identify all of the inventors. Each declaration must identify all of the inventors even if it is only signed by one of them.

Extension of Time

The decision mailed 28 March 2007 set a two-month extendable period for reply. The submission filed 17 July 2007 included a petition/fee for a five-month extension of time when only a two month extension was required. The difference has been credited to Deposit Account 50-1619.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Since the reply filed 17 July 2007 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide a declaration signed by Thomas Rillman in compliance with 37 CFR 1.497(a)-(b). Failure to timely file a proper reply will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Daniel Stemmer
Legal Examiner

Application No.: 10/577,569

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